

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company; the City of Mount Olive; :  
Staunton Township; and the State of Illinois, Department of :  
Transportation. :

Stipulated Agreement regarding improving public safety at the :  
crossings of the Company's tracks with public highways known :  
as Third North Street, Main Street (CH 16), Second South Street, :  
Third South Street, Poplar Street, and Eighth South Street, all in : T03-0041  
the City of Mount Olive, and TR 457 in Staunton Township, all :  
located in Macoupin County, Illinois, designated as crossings :  
AAR/DOT #480 074P, railroad milepost 444.51-WA, AAR/DOT :  
#480 075W, railroad milepost 444.74-WA, AAR/DOT #480 076D, :  
railroad milepost 444.85-WA, AAR/DOT #480 077K, railroad :  
milepost 444.93-WA, AAR/DOT #480 078S, railroad milepost :  
445.09-WA, AAR/DOT #480 079Y, railroad milepost 445.28-WA, :  
and AAR/DOT #480 084V, railroad milepost 447.13-WA, :  
respectively. :

THIRD SUPPLEMENTAL ORDER

By the Commission:

On June 4, 2003, the Illinois Commerce Commission entered its original Order in the above captioned matter. The City of Mount Olive ("City") and the Norfolk Southern Railway Company ("Company") were required to make safety improvements at the Third North Street, Main Street (CH 16), Second South Street, Third South Street, Poplar Street, and Eighth South Street highway-rail grade crossings of the Company's tracks; and Staunton Township ("Township") and the Company were required to make safety improvements at the TR 457 highway-rail grade crossing of the Company's track located near Mount Olive, Macoupin County, on or before December 4, 2004.

On September 22, 2004, the City of Mount Olive filed a Supplemental Petition requesting an extension of time, to and including December 4, 2005, to complete the work required of it. On October 20, 2004, the Commission entered its First Supplemental Order granting the requested extension of time. It was not necessary to grant the Norfolk Southern Railway Company an extension of time in that First Supplemental Order, since its work on the crossings in Mount Olive had been completed.

On November 16, 2004, the Norfolk Southern Railway Company filed a Supplemental Petition requesting an extension of time, to and including June 4, 2005, to complete the work required of it at the TR 457 grade crossing in Staunton Township. Upon further deliberation, since Staunton Township had not completed the approach improvements at the subject crossing, it was determined that the Township should also be

granted an extension of time equal to the Company's. On December 15, 2004, the Commission entered its Second Supplemental Order granting the Company's requested extension of time to complete the required work at the TR 457 grade crossing in Staunton Township, and also granted Staunton Township the same extension of time to complete the required approach reconstruction work at the same crossing.

On December 8, 2005, the City of Mount Olive filed a Supplemental Petition requesting an extension of time, to and including June 4, 2006, to complete the approach reconstruction work required of it at the Third North Street, Second South Street, Poplar Street, and Eighth South Street highway-rail grade crossings of the Company's tracks in the City of Mount Olive. After the City's consulting engineer completed the final plans, specifications and bid documents, the Company installed the railroad crossing safety devices above the proposed storm sewer conveyance system on Poplar Street causing a conflict with the completed storm sewer design. Instead of removing the devices and replacing them at a different location, and due to time constraints, the Company and the City decided that the storm sewer system should be re-designed so that the devices did not have to be relocated. The contractor then proceeded to 2<sup>nd</sup> South Street to continue work. While installing storm sewer on 2<sup>nd</sup> South Street the contractor excavated contaminated soils within the railroad right of way. The cleanup (by the Company) is currently still in progress and no further work by the contractor can be done at 2<sup>nd</sup> South Street at this time. The contractor then moved back to Poplar Street where he attempted to finish the newly designed storm sewer system, as previously mentioned. While excavating, the contractor located a conflict with the water main and the newly re-routed storm sewer system. This required the contractor to stop work at Poplar Street as well so that the water main can be lowered, pending the required permits for the Illinois Environmental Protection Agency. Until the water main is lowered the contractor will next be moved to 8<sup>th</sup> South Street to begin work on the proposed profiles. Also, just as the entire project was beginning, the Company replaced the crossing surfaces at all four locations and raised the tracks 2"-3" at each location. The City's engineering consultant is currently working on new profiles to correct for the grade raise.

Staff of the Commission's Rail Safety Section has reviewed the Supplemental Petition and believes the City's request is reasonable and should be approved.

The Commission, having given due consideration to the Third Supplemental Petition, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact, as set forth in the prefatory portion of this Third Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) The City's request for an extension of time, to and including June 4, 2006, is fair and reasonable and should be granted;

- (4) All other terms and conditions of the original Order dated June 4, 2003, the First Supplemental Order dated October 20, 2004, and the Second Supplemental Order dated December 15, 2004, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including June 4, 2006, is hereby granted to the City of Mount Olive to complete the work as set forth in the original Order dated June 4, 2003, on the Third North Street, Second South Street, Poplar Street, and Eighth South Street highway-rail grade crossings of the Norfolk Southern Railway Company's tracks located in the City of Mount Olive and designated as crossings AAR/DOT #480 074P, railroad milepost 444.51-WA, AAR/DOT #480 076D, railroad milepost 444.85-WA, AAR/DOT #480 078S, railroad milepost 445.09-WA, and AAR/DOT #480 079Y, railroad milepost 445.28-WA, respectively.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated June 4, 2003, the First Supplemental Order dated October 20, 2004, and the Second Supplemental Order dated December 15, 2004, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 11<sup>th</sup> day of January 2006.

BY ORDER OF THE COMMISSION

JUDGE
SECTION CHIEF <i>mes</i>
<i>[Signature]</i> ORDERS SUPERVISOR